

**Before the
Federal Communications Commission
Washington, D.C. 20554**

)	
In the Matter of BellSouth's)	
Petition for Forbearance in the)	WC Docket No. 04-405
Incumbent LEC Provision of Broadband)	
)	

COMMENTS OF FSM MARKETING GROUP, INC.

Introduction

BellSouth's Petition for Forbearance attempts to add yet another layer of rhetoric to the clouded issues before the Commission. The Commission erstwhile has been presented with such Petition, WC Docket 02-33, whose resolution is still pending. In this recent petition, WC Docket 04-405, BellSouth's intent we believe is an attempt to bump up the speed of their mission in destroying the competition, which they wanted no part of ISP business in the first place. If this is the case, then this and other petitions like it should be dismissed with prejudice.

Common carriage and Computer II obligations were put into place to provide open access and competitive products and services for businesses and consumers. Tens of thousands of businesses and millions of consumers benefit from the freedom of choice for Internet access. Are we to deny such freedom in a democracy whose very foundation is that of freedom of choice? If the answer is no, then the dismissal of both these petitions is precedent in accordance of law.

The BOCs have disenfranchised their competitors via regulatory capture, wanting to cut their ISP customers off completely. It is of our opinion that the granting of this petition and others of similar essence may provide for imminent antitrust actions.

Common Carriage and Computer II

The principle of common carriage is well over a century old. Internet Service providers (ISPs) are entitled under the 19th century principle of common carriage, as provided for in the Communications Act of 1934, and the Commissions Computer II decision and many rulings since that time.

The BOCs in 1996 agreed to share their loops and interconnect with competitors. However, the ambiguousness wording in the Telecommunications Act of 1996, prompted an anti-competitive interpretation from a DC Circuit Court allowing them to disenfranchise their competition.

Preceding the Telecommunications Act of 1996, ISPs did exist though BOCs were not allowed to compete. The Telecommunications Act of 1996 changed that and allowed the BOCs to freely compete with ISPs, CLECs and long distance providers (ICXs).

Competitive Innovation

It can not be stressed enough that the Internet was brought to the public from the collaborative works within the halls of academia, private enterprises and the entrepreneurial efforts of ISPs. Through these dedicated and courageous individuals, the economic growth of this nation has exploded. No where in history can it be shown that the use of existing technology was rebirth into a new dimension, creating thousands of new businesses and tens of thousands of new employment opportunities. The economic benefits have been astounding.

But we are now facing corrupt fiat that may turn back the clock, while setting the stage for economic asperity just last seen from the "dot com" crash and still endures to this day, to effect thousands of lives who lost millions of dollars in life savings. This is factual and not what has been stated by Commissioner Powell's idiom as a "melodramatic hyperbole parade of horrors" in his closing remarks of the December 15, 2004 Commission meeting.

ISP's can account for millions of customers using the Internet and providing for the creation of new and exciting innovations that have enhanced the quality of life beyond ones imagination. The BOCs can not account for such accolades.

In closing and in behalf of our customers, FSM Marketing Group requests that the Commission dismiss with prejudice, the BellSouth Petition for Forbearance, and retain the obligation of common carriage, and the associated Computer II requirements that support it.

Any other choice by the Commission, would cause irreparable harm to many ISPs, CLECs, Telecommunication Specialist and affiliates around the country, especially small businesses and consumers, and would harm the public by taking away the freedom of choice, that even the Commission can not deny in its own views.

Respectively Submitted,

Frank J. Muto

Chairman / President

FSM Marketing Group, Inc

FSM Marketing Group, Inc

P.O. Box 470535

Broadview Heights, Ohio 44147

Info@ispnetworks.org